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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 29, 2001

PETITION OF

VIRGINIA TELECOMMUNICATIONS
INDUSTRY ASSOCIATION

CASE NO. PUC010172

For the establishment of formal
procedures for annual certification
of use of federal universal service
support in accordance with
47 C.F.R. §§ 54.313 and .314

PRELIMINARY ORDER

On August 14, 2001, the Virginia Telecommunications Industry Association ("VTIA"), on behalf of its incumbent local exchange carrier ("ILEC") members, filed a Petition requesting that the Virginia State Corporation Commission ("Commission") establish formal procedures for the annual certification of the use of federal universal high-cost support by rural and non-rural carriers in accordance with 47 C.F.R. §§ 54.313 and .314.

Pursuant to § 254(e) of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. § 254(e), only eligible telecommunications carriers designated under § 214(e)¹ shall be

¹ The Commission adopted procedures for the designation of eligible telecommunications carriers in its Order of November 27, 1997, in Case No. PUC970135.

eligible for federal universal support, and any carrier that receives such federal universal service funds must use those funds "only for the provision, maintenance and upgrading of facilities and services for which the support is intended."

The Federal Communications Commission ("FCC") has adopted rules requiring states to file annual certification(s) with the FCC and the Universal Service Administrative Company ("USAC"), that all carriers, rural and non-rural that are designated as eligible to receive support under § 214(e) are, in fact, using any such support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended".² Absent this state certification, eligible carriers in a state will not receive universal support.

The VTIA has proposed a process for yearly self-certification. Under VTIA's recommended self-certification procedure, each rural and/or non-rural ILEC (or any other eligible carrier serving lines in the service area of the ILEC) would submit a sworn affidavit certifying that federal high-cost support funds to be received by that carrier during the next year will be used only for the provision, maintenance, and

² See FCC's Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157 (rel. May 23, 2001). The annual certification requirement for rural carriers has been codified at 47 C.F.R. § 54.314, effective July 1, 2001. The annual certification for non-rural carriers was adopted in the FCC's Ninth Report and Order and codified at 47 C.F.R. § 54.313.

upgrading of facilities and services for which the support is intended under the Act. VTIA has included a proposed form of Affidavit to accomplish this self-certification, which is attached to this Order as Exhibit A.

VTIA notes that its proposed self-certification process is patterned after the self-certification process established by the FCC for rural and non-rural carriers not subject to a state commission's jurisdiction, which we note would include cooperatives in Virginia formed under the Telephone Cooperatives Act.³

The Commission finds that the proposed self-certification procedure proposed by VTIA is a reasonable procedure to accomplish the Commission's annual certification with the FCC and USAC in accordance with 47 C.F.R. §§ 54-313 and .314. The attached affidavit (Exhibit A), or one that includes all relevant information, may be used by the eligible carrier in its certification to the Commission.

On an ongoing basis, any eligible carriers seeking this certification shall submit its self-certification affidavit to the Commission by August 1 for the prospective calendar year as the Commission needs to submit its state certification to the FCC and USAC by October 1 of each year. However, for the year

³ §§ 56-485, et seq. Cooperatives are advised to consult 47 C.F.R. §§ 54-313(b), (c), .314(c), (d). These carriers are required to certify directly with the FCC.

beginning January, 1, 2002, any eligible carriers that seek such certification shall submit their affidavit to the Commission no later than September 14, 2001.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed as Case No. PUC010172.

(2) As set out above, any eligible carrier that seeks yearly certification by the Commission of the use of federal universal service support shall annually file an affidavit with the Clerk of the Commission. Such affidavit shall be signed by an appropriate company officer attesting that the federal high-cost support funds received for the next year will be used only for the provision, maintenance, and upgrading of facilities for which the support is intended.

(3) For the year beginning January 1, 2002, any eligible carrier seeking annual Commission certification shall submit its affidavit by September 14, 2001. Thereafter, the eligible carrier shall submit an annual affidavit by August 1 of each year, consistent with the findings above.

(4) This case is continued generally.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

**AFFIDAVIT OF [NAME] IN SUPPORT
OF [COMPANY NAME]'S USE OF
FEDERAL UNIVERSAL SERVICE SUPPORT**

2. Under 47 C.F.R. [§ 54.313/§ 54.314], the Commission is required to submit an annual certification to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC"), certifying that [non-rural/rural] incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a [non-rural/rural] incumbent local exchange carrier within the Commonwealth of Virginia will use federal high-cost universal service support in a manner consistent with section 254(e) of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. § 254(e). Absent such certification, such carriers will not receive universal service support. In order for carriers to receive federal

support beginning January 1 of each year, the Commission's certification must be filed with the FCC and the USAC by October 1 of the preceding year.

3. In this Case No. PUC_____, the Commission established self-certification procedures under which each carrier in the Commonwealth of Virginia that is subject to the Commission's jurisdiction and eligible to receive federal high-cost universal service support, must certify to the Commission by July 1 of each year that federal universal service support funds to be received by that carrier for the succeeding year will be used only for the provision, maintenance and upgrading of facilities and services for which such support is intended.

4. Company Name hereby certifies that the federal high-cost universal service support Company Name will receive in year will be used for the services and functionalities outlined in 47 C.F.R. § 54.101(a), and that it will only use the federal high-cost support it receives for the provision, maintenance and upgrading of facilities and services for which such support is intended, consistent with section 254(e) of the Act.

FURTHER AFFIANT SAYETH NOT.

Name

Title

Company Name

Subscribed and sworn to before me this ____ day of _____, 200__.

Notary Public

My commission expires: _____.

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